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APPOINTMENT OF ATTORNEYS AD LITEM, GUARDIANS AD LITEM, MEDIATORS, AND GUARDIANS IN CERTAIN COUNTIES

CHAPTER 1223

S.B. No. 1876

AN ACT

relating to the appointment of attorneys ad litem, guardians ad litem, mediators, and guardians in certain counties.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subtitle B, Title 2, Government Code, is amended by adding Chapter 37 to read as follows:

CHAPTER 37. APPOINTMENTS OF ATTORNEYS AD LITEM, GUARDIANS AD LITEM, MEDIATORS, AND GUARDIANS

Sec. 37.001. APPLICABILITY; CONFLICT OF LAW. (a) This chapter applies to a court in this state created by the Texas Constitution, by statute, or as authorized by statute that is located in a county with a population of 25,000 or more.

(b) To the extent of a conflict between this chapter and a specific provision relating to a court, this chapter controls.

Sec. 37.002. EXEMPTION. The appointment requirements of Section 37.004 do not apply to:

(1) a mediation conducted by an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code;

(2) a guardian ad litem or other person appointed under a program authorized by Section 107.031, Family Code;

(3) an attorney ad litem, guardian ad litem, amicus attorney, or mediator appointed under a domestic relations office established under Chapter 203, Family Code; or

(4) a person other than an attorney or a private professional guardian appointed to serve as a guardian as defined by Section 1002.012, Estates Code.

Sec. 37.003. LISTS OF ATTORNEYS AD LITEM, GUARDIANS AD LITEM, MEDIATORS, AND GUARDIANS. (a) In addition to a list required by other state law or rule, each court in this state shall establish and maintain the following lists:

(1) a list of all attorneys who are qualified to serve as an attorney ad litem and are registered with the court;

(2) a list of all attorneys and other persons who are qualified to serve as a guardian ad litem and are registered with the court;

(3) a list of all persons who are registered with the court to serve as a mediator; and

(4) a list of all attorneys and private professional guardians who are qualified to serve as a guardian as defined by Section 1002.012, Estates Code, and are registered with the court.

(b) A court may establish and maintain more than one of a list required under Subsection (a) that is categorized by the type of case and the person's qualifications.

(c) A local administrative judge, at the request of one or more of the courts the judge serves, shall establish and maintain the lists required under Subsection (a) for those courts. The local administrative judge may establish and maintain one set of lists for all of the requesting courts and may maintain for the courts more than one of a list as provided in Subsection (b).

Sec. 37.004. APPOINTMENT OF ATTORNEYS AD LITEM, GUARDIANS AD LITEM, MEDIATORS, AND GUARDIANS; MAINTENANCE OF LISTS. (a) Except as provided by Subsections (c) and (d), in each case in which the appointment of an attorney ad litem, guardian ad litem, or guardian is necessary, a court using a rotation system shall appoint the person whose name appears first on the applicable list maintained by the court as required by Section 37.003.

(b) In each case in which the appointment of a mediator is necessary because the parties to the case are unable to agree on a mediator, a court using a rotation system shall appoint the person whose name appears first on the mediator list maintained by the court as required under Section 37.003.

(c) The court may appoint a person included on the applicable list whose name does not appear first on the list, or a person who meets statutory or other requirements to serve and who is not included on the list, if the appointment of that person as attorney ad litem, guardian ad litem, or guardian is agreed on by the parties and approved by the court.

(d) On finding good cause, the court may appoint a person included on the applicable list whose name does not appear first on the list, or a person who meets statutory or other requirements to serve on the case and who is not included on the list, if the appointment of that person as attorney ad litem, guardian ad litem, mediator, or guardian is required on a complex matter because the person:

(1) possesses relevant specialized education, training, certification, skill, language proficiency, or knowledge of the subject matter of the case;

(2) has relevant prior involvement with the parties or case; or

(3) is in a relevant geographic location.

(e) A person who is not appointed in the order in which the person's name appears on the applicable list shall remain next in order on the list.

(f) After a person has been appointed as an attorney ad litem, guardian ad litem, mediator, or guardian from the applicable list, the court shall place that person's name at the end of the list.

Sec. 37.005. POSTING OF LISTS. A court annually shall post each list established under Section 37.003 at the courthouse of the county in which the court is located and on any Internet website of the court.

SECTION 2. Section 25.0022(d), Government Code, is amended to read as follows:

(d) The presiding judge shall:

(1) ensure the promulgation of local rules of administration in accordance with policies and guidelines set by the supreme court;

(2) advise local statutory probate court judges on case flow management practices and auxiliary court services;

(3) perform a duty of a local administrative statutory probate court judge if the local administrative judge does not perform that duty;

(4) appoint an assistant presiding judge of the statutory probate courts;

(5) call and preside over annual meetings of the judges of the statutory probate courts at a time and place in the state as designated by the presiding judge;

(6) call and convene other meetings of the judges of the statutory probate courts as considered necessary by the presiding judge to promote the orderly and efficient administration of justice in the statutory probate courts;

(7) study available statistics reflecting the condition of the dockets of the probate

courts in the state to determine the need for the assignment of judges under this section;

(8) compare local rules of court to achieve uniformity of rules to the extent practical and consistent with local conditions; ~~and~~

(9) assign a judge or former or retired judge of a statutory probate court to hear a case under the circumstances described by Section 25.002201(b); *and*

(10) *require the local administrative judge for statutory probate courts in a county to ensure that all statutory probate courts in the county comply with Chapter 37.*

SECTION 3. Section 74.092, Government Code, is amended to read as follows:

Sec. 74.092. DUTIES OF LOCAL ADMINISTRATIVE JUDGE. ~~[(a)]~~ A local administrative judge, for the courts for which the judge serves as local administrative judge, shall:

(1) implement and execute the local rules of administration, including the assignment, docketing, transfer, and hearing of cases;

(2) appoint any special or standing committees necessary or desirable for court management and administration;

(3) promulgate local rules of administration if the other judges do not act by a majority vote;

(4) recommend to the regional presiding judge any needs for assignment from outside the county to dispose of court caseloads;

(5) supervise the expeditious movement of court caseloads, subject to local, regional, and state rules of administration;

(6) provide the supreme court and the office of court administration requested statistical and management information;

(7) set the hours and places for holding court in the county;

(8) supervise the employment and performance of nonjudicial personnel;

(9) supervise the budget and fiscal matters of the local courts, subject to local rules of administration;

(10) coordinate and cooperate with any other local administrative judge in the district in the assignment of cases in the courts' concurrent jurisdiction for the efficient operation of the court system and the effective administration of justice;

(11) *if requested by the courts the judge serves, establish and maintain the lists required by Section 37.003 and ensure appointments are made from the lists in accordance with Section 37.004* ~~[a list of all attorneys qualified to serve as an attorney ad litem]; and~~

(12) perform other duties as may be directed by the chief justice or a regional presiding judge.

~~[(b) A list of attorneys ad litem maintained under Subsection (a)(11) must contain the names of all attorneys who:~~

~~[(1) meet any statutory or other requirements to serve as an attorney ad litem; and~~

~~[(2) have registered to serve as attorney ad litem with a court for which the judge maintaining the list serves as local administrative judge.]~~

SECTION 4. Section 74.093, Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The rules may provide for the establishment and maintenance of the lists required by Section 37.003, including the establishment and maintenance of more than one of a list required by that section that is categorized by the type of case, such as family law or probate law, and the person's qualifications.

SECTION 5. Section 74.098, Government Code, is repealed.

SECTION 6. Chapter 37, Government Code, as added by this Act, and Section 74.092,

Government Code, as amended by this Act, apply only to the appointment of an attorney ad litem, guardian ad litem, mediator, or guardian made on or after the effective date of this Act. An appointment made before the effective date of this Act is governed by the law in effect on the date the appointment was made, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2015.

Passed the Senate on May 4, 2015: Yeas 31, Nays 0; the Senate concurred in House amendments on May 29, 2015: Yeas 30, Nays 1; passed the House, with amendments, on May 26, 2015: Yeas 142, Nays 3, two present not voting.

Approved June 19, 2015.

Effective September 1, 2015.

AUTHORIZING SUPPORTED DECISION-MAKING AGREEMENTS FOR CERTAIN ADULTS WITH DISABILITIES

CHAPTER 1224

S.B. No. 1881

AN ACT

relating to authorizing supported decision-making agreements for certain adults with disabilities.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subtitle I, Title 3, Estates Code, is amended by adding Chapter 1357 to read as follows:

CHAPTER 1357. SUPPORTED DECISION-MAKING AGREEMENT ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1357.001. *SHORT TITLE.* This chapter may be cited as the Supported Decision-Making Agreement Act.

Sec. 1357.002. *DEFINITIONS.* In this chapter:

(1) “Adult” means an individual 18 years of age or older or an individual under 18 years of age who has had the disabilities of minority removed.

(2) “Disability” means, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities.

(3) “Supported decision-making” means a process of supporting and accommodating an adult with a disability to enable the adult to make life decisions, including decisions related to where the adult wants to live, the services, supports, and medical care the adult wants to receive, whom the adult wants to live with, and where the adult wants to work, without impeding the self-determination of the adult.

(4) “Supported decision-making agreement” is an agreement between an adult with a disability and a supporter entered into under this chapter.

(5) “Supporter” means an adult who has entered into a supported decision-making agreement with an adult with a disability.

Sec. 1357.003. *PURPOSE.* The purpose of this chapter is to recognize a less restrictive alternative to guardianship for adults with disabilities who need assistance with decisions regarding daily living but who are not considered incapacitated persons for purposes of establishing a guardianship under this title.

SUBCHAPTER B. SCOPE OF AGREEMENT AND AGREEMENT REQUIREMENTS